

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,  
  
Plaintiff/Counter Defendant,  
  
v.  
  
KING MOUNTAIN TOBACCO  
COMPANY, INC.,  
  
Defendant/Counter Claimant.

NO: 2:12-CV-3089-RMP

ORDER GRANTING MOTION TO  
ALTER OR AMEND JUDGMENT

BEFORE THE COURT is the United States' Motion to Alter or Amend Judgment, **ECF No. 102**. The Court has reviewed the motion, the response memorandum (ECF No. 105), the reply memorandum (ECF No. 107), and is fully informed.

Under Federal Rule of Civil Procedure 60(a), "a clerical mistake or a mistake arising from oversight or omission" on a judgment "may be correct only with the appellate court's leave" once an appeal has been docketed in the appellate court. Fed. R. Civ. P. 60(a). Accordingly, on March 16, 2015, the Court entered an

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1 indicative ruling finding that “it would grant the United States’ motion to amend  
2 the judgment to include the amount owing of \$57,914,811.27 as of June 11, 2013,  
3 plus interest and other statutory additions accruing after that date until paid in full,  
4 if the Ninth Circuit remanded the case for that limited purpose.” ECF No. 110 at 3.

5 However,

6 when a district court attempts to correct a ‘clerical error’ under Federal  
7 Rule of Civil Procedure 60(a) after a notice of appeal has been filed,  
8 and the correction does not represent a change of position, but rather  
9 simply clarifies the court’s intended action, a remand to effectuate that  
10 intent is a matter of mere form.

11 *Morris v. Morgan Stanley & Co.*, 942 F.2d 648, 654 (9th Cir. 1991) (internal  
12 citations omitted). As indicated in the Court’s prior order, the amount owing was  
13 mistakenly omitted from the judgment. *See* ECF No. 110 at 3. As such, the Court  
14 **GRANTS** the United States’ motion to amend to include the amount owing as  
15 such a correction does not “represent a change of position” and instead “simply  
16 clarifies the court’s intended action.” *See Morris*, 942 F.2d at 654.

17 Accordingly, **IT IS HEREBY ORDERED** that the United States’ Motion  
18 to Alter or Amend Judgment, **ECF No. 102**, is **GRANTED**.

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1 The District Court Clerk is directed to enter this Order, **enter an amended**  
2 **judgment to include the amount owing of \$57,914,811.27 as of June 11, 2013,**  
3 **plus interest and other statutory additions accruing after that date until paid**  
4 **in full**, and provide copies to counsel.

5 **DATED** this 3rd day of June 2016.

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7 *s/ Rosanna Malouf Peterson*  
8 ROSANNA MALOUF PETERSON  
9 United States District Judge  
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